IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

No. 75-1184

PEGGY J. CONNOR, ET AL.,
Petitioners,

—VS—

HONORABLE J. P. COLEMAN,
United States Circuit Judge, ET AL.,
Respondents.

On Motion for Leave to File Petition for Merit of Mandamus and Petition for Writ of Mandamus

REPLY BRIEF FOR PETITIONERS

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REPLY BRIEF FOR PETITIONERS

The response of the Respondent District Judges (Coleman, C.J., Russell and Cox, D.J.) and brief of the state official defendants fail to answer plaintiffs' contentions in their Petition for Writ of Mandamus that the January 29, 1976 stay order of the District Court (1) amounts to an obstruction of the prior mandates of this Court and (2) causes the petitioners immediate and irreparable injury by further delay of the prompt and speedy effectuation of their declared voting rights.

1. Petitioners do not Seek the Writ of Mandamus as a Substitute for Appeal.

Defendant state officials make much of (Brief, pp. 5-9), and the respondent judges advert to (Response, p. 5), the fact that the plaintiffs failed to appeal from the District Court's Order of July 11, 1975, establishing "temporary" legislative districts "for the year 1975 only." The defendant state officials argue (Brief, pp. 5-9) that petitioners seek this writ of mandamus as a substitute for their failure to appeal from the District Court's July 11, 1975 order.

The Mississippi Attorney General's argument, which is not advanced by respondent judges, is spurious and misses the point of the Petition. The writ of mandamus is sought, not as a substitute for an appeal, but in aid of the appellate jurisdiction of this Court in a case in which that jurisdiction has been defeated by the unauthorized action of the lower court, *Ex parte United States*, 287 U.S. 245, 246 (1932), and to enforce the prior mandates of this Court which have been disregarded by the District Court. *Bucolo* v. *Adkins*, 44 U.S.L.W. 3500 (U.S. March 8, 1976); *United States* v. *Haley*, 371 U.S. 18 (1962). *See also McClellan* v. *Carland*, 217 U.S. 268, 279 (1910) (Mandamus should issue to vacate stay order which denies Federal rights).

The District Court's order of July 11, 1975—under this Court's January 24, 1972, decision in this case, *Connor* v. *Williams*, 404 U.S. 549 (1972)—was only a temporary plan for the 1975 elections only and did not purport to be a final order for a state-wide plan.[1] Im-

[1] In the 1971 appeal decided in January, 1972, *Connor* v. *Williams*, *supra*, this Court declined to rule upon the "substantial questions" presented by plaintiffs "concerning the constitutionality of the District Court's plan as a design for permanent apportionment" (404 U.S. at 550). The Court gave two reasons for declining to decide the questions presented: (1) the District Court's 1971 order established only "temporary" districts for the 1971 elections only and purported to retain jurisdiction for the purpose of inquiring into the feasibility of creating single-member districts for Hinds, Harrison, and Jackson Counties (*id.* at 551), and (2) the Court indicated that if it were to consider the substantial questions presented, "it would be preferable to have before us a final judgment with respect to the entire state" (*id.* at 551-52). In other words, in 1972 this Court indicated to the plaintiffs that it did not want to decide the questions presented in the Mississippi legislative reapportionment case piece-meal and, given that the District Court had retained jurisdiction for the purpose of establishing single-member districts in the State's most populous counties, the Court would decline to review the case on the merits until a final judgment had been entered.

The District Court's July 11, 1975 order placed the case in a procedural posture analogous to that of 1971. The 1975 order established only "temporary" legislative districts "for the year 1975 only" (Petition, App. F, p. 26a). The District Court expressed dissatisfaction with certain of the multi-member districts created, but indicated that time was too short to make more extensive changes (*id.*, pp. 28a, 33a-45a). The District Court retained jurisdiction by ordering the parties within 90 days to file proposed plans "for the permanent reapportionment of the legislature" (*id.*, p. 53a). (We would also note, in any event, that the July 11 order does not represent an appealable *judgment*. Rule 58, F.R.Civ. P.; *United States* v. *Indrelunas*, 411 U.S. 216, 222 (1973).)

mediately, both the private plaintiffs and the United States as plaintiff-intervenor pointed out the inadequacies of the July 11 order as a permanent plan (Petition, Apps. D and E, pp. 6a-25a) and moved the court to establish a timetable for approval of a permanent plan and remedial special elections to cure the unlawful features of the temporary plan. On August 1, 1975, the District Court, in effect, granted the substance of these motions and assured the parties of its "firm determination to have this matter out of the way before February 1, 1976." (Petition, App. C, p. 4a).

In explicit terms, the District Court had thereby assured the parties that it would act promptly to enter a final judgment, *i.e.*, a permanent state-wide plan. The plaintiffs, relying on the District Court's own represen-

tations concerning the timetable for promulgation of a complete plan to enforce the prior mandates of this Court, felt constrained at that time to give the District Court every reasonable opportunity to act to enforce this Court's prior mandates itself before again petitioning this Court.

In timely fashion, pursuant to the timetable set by the District Court, the parties submitted permanent plans for review, hearing and decision by the District Court. If the District Court had then adhered to its original timetable and ordered a permanent plan by February 1, 1976, there would have been a final judgment for a permanent, state-wide plan from which any dissatisfied party could have secured timely review by an appeal under the terms of this Court's opinion in *Connor* v. *Williams*. (See note 1, *supra*). Instead, the District Court on January 29, 1976 deferred any final decision on a permanent plan (Petition, App. A, pp. 1a-2a) and thereby foreclosed its enforcement of the prior mandates entered by this Court.

Hence, the necessity of this petition for mandamus is manifest. By in effect rescinding the timetable established in its August 1 order by entering, *sua sponte*, its January 29, 1976 stay order, the District Court has deprived the petitioners of (1) the enforcement of the prior mandates of this Court *and* (2) an opportunity for a meaningful appeal, *i.e.*, from the promised final judgment. The purpose of this mandamus petition is *not* to appeal the July 11 temporary plan but rather to compel the District Court to proceed and enter the "final judgment with respect to the entire State" which this Court mandated in January, 1972, in accord with the criteria for a court-ordered plan which this Court mandated on June 5, 1975. *Connor* v. *Waller*, 421 U.S. 656 (1975).

2. Petitioners in This Proceeding Seek No Relief In the Nature of An Appeal From the District Court's July 11, 1975 Order.

Contrary to the defendant state officials' contentions (Brief, pp. 4-9), this proceeding in no way constitutes an attempt to correct any error of the District Court's July 11, 1975 order, but rather was filed simply to compel the District Court to comply with its own self-imposed timetable to obtain the minimum relief required to comply with this Court's prior mandates. As early as June 25, 1975, twenty days after this Court's decision in *Connor* v. *Waller*, 421 U.S. 656 (1975), the District Court entered an order directing the parties to file memoranda on their objections to the existing legislative districts and "judicially inform[ing]" the parties (1) that since time was too short to devise a "permanent plan" for the 1975 legislative elections, the Court intended to devise a "temporary plan . . . for the 1975 election ONLY," (2) that subsequently the District Court "proposes without unnecessary delay to formulate a permanent plan" for the 1979 legislative elections and (3) when that is accomplished, "special elections may be ordered in those legislative districts where required by law, equity, or the Constitution of the United States." Order of June 25, 1975, p. 3 (attached).[2]

Subsequently, on July 8, 1975, the District Court entered an opinion containing its formulation of legislative districts "on a temporary basis for the 1975 elections only" (Opinion of July 8, 1975, p. 23), and indicated again:

> "Thereafter [after the 1975 elections], in the due course of events, as speedily as judicially possible, we propose to set up a permanent plan for the election of Senators and Representatives in plenty of time for it to be submitted to the scrutiny of the

[2] See Docket Entries, Petition, App. G, pp. 84a-85a.

> Supreme Court of the United States and be fully operative far enough in advance of the election year of 1979 in order that the confusion which has reigned rampant this year will not arise to plague voters, candidates, and courts alike." *Id.*, p. 16.

The District Court in that order indicated that there was little likelihood that plaintiffs would be injured by legislative elections based on the proposed temporary plan for the reason that any inadequacies in the temporary plan could be cured by special elections later:

> "We have determined that no irreparable injury will occur by allowing the 1975 legislative elections to proceed under a temporary plan on the dates provided by law. If the permanent plan, later to be adopted, manifests that the temporary plan has caused such an injury the same will be corrected by special elections as provided by Mississippi law." Order of July 8, 1975, p. 15.

Both of these orders were incorporated by reference in the District Court's Order of July 11, 1975 (Petition, App. F., p. 26a).

Then in its Order of August 1, 1975, following plaintiffs' and plaintiff-intervenor United States' motions to amend the Order of July 11, 1975, the District Court declined to set a firm deadline for a permanent plan, but did indicate that it "expects to have such a plan [a permanent plan] approved before February 1, 1976" and expressed and reiterated its "firm determination to have this matter out of the way before February 1, 1976" (Petition, App. C, p. 4a). And, as to "all instances in which a special election may be required," the District Court indicated that it "expects to direct that the same shall be held in conjunction with the 1976 Presidential election" (*id.*, p. 5a).

Thus, this proceeding does not in any way constitute an attempt to "appeal" or "challenge" (Def. Br., p. 4)

the District Court's July 11, 1975 Order or to "establish rights" (*id.*, p. 9) beyond those contained in the prior mandates of this Court. Indeed, we ask here for *nothing* more than that which the District Court indicated in the summer of 1975 it would order by February 1, 1976. In three separate decrees of June 25, July 8, and August 1, 1975, the District Court specifically indicated that it would formulate a permanent plan "without unnecessary delay" (Order of June 25), "as speedily as judicially possible" (Order of July 8), and "before February 1, 1976" (Order of August 1). Further, in each of those three decrees, the District Court expressly stated that it would order special elections on the basis of the legislative districts established by the permanent plan prior to the 1979 regular legislative elections "where required by law, equity, or the Constitution of the United States" (Order of June 25), to remedy any injury caused by implementation of the temporary plan for the 1975 elections (Order of July 8), and "in conjunction with the 1976 Presidential election" (Order of August 1). Thus, all the petitioners are asking in this proceeding is that the District Court follow its own self-imposed timetable, and that it grant the relief to which the District Court itself finally recognized the plaintiffs are entitled pursuant to the prior mandates of this Court.

3. The Reasons Advanced in Support of the January 29 Stay Order Are Totally Inadequate and Without Foundation.

A. The contentions of the respondent judges and the defendant state officials in their briefs that delay is justified to permit resolution by this Court of pending cases presenting the question of dilution of Black voting strength completely distort the present posture of this case and serve only to emphasize the point that the District Court has fundamentally misconstrued the directive of this Court in its mandate of June 5, 1975. *Cf. United*

States v. *Haley*, *supra*. On remand, after the United States Attorney General entered his unchallenged objection under Section 5 of the Voting Rights Act of 1965 to the Legislature's plan, the District Court was obliged to order into effect a court-ordered plan. At this point, the question of whether multi-member districts should be struck down for dilution of Black voting strength does not even arise, since any court-ordered plans must in any event meet the *Chapman* v. *Meier* single-member district standards, specifically cited in this Court's June 5, 1975 decree.

Thus, for example, in *East Carroll Parish School Bd.* v. *Marshall*, 44 U.S.L.W. 4320 (No. 73-861) (U.S. March 8, 1976), involving a racial discrimination challenge to at-large parish elections, this Court indicated that the Court of Appeals need not even have reached the constitutional question of dilution of Black voting strength in reversing the District Court's approval of the at-large scheme:

> "We have frequently reaffirmed the rule that when United States district courts are put to the task of fashioning reapportionment plans to supplant concededly invalid state legislation, single-member districts are to be preferred absent unusual circumstances. *Chapman* v. *Meier*, 420 U.S. 1, 17-19 (1975); *Mahan* v. *Howell*, 410 U.S. 315, 333 (1973); *Connor* v. *Williams*, 404 U.S. 549, 551 (1972); *Connor* v. *Johnson*, *supra*, at 692." 44 U.S.L.W. at 4321.[3]

Thus, the reason given by the District Court for its stay of proceedings in this case—to receive "some badly needed guidance" from this Court on the issue of "impermissible dilution and minimization of the black vote" (Petition, App. A, p. 1a)—fails to justify any further delay in the effectuation of petitioners' rights since, in

[3] The *East Carroll Parish* case was one of the three pending cases cited by the respondent judges in support of the January 29 stay order (Pet., App. A, p. 2a).

the present posture of the case, the District Court need not even reach this issue. Single-member districts are required in this court-ordered plan "absent unusual circumstances." And this Court has already so instructed the District Court, most recently on June 5, 1975 in *Connor* v. *Waller*.

The citation by this Court in *East Carroll Parish* to its prior decisions in *this case* emphasizes that the principles governing the implementation of a permanent court-ordered plan for Mississippi have already been established *in this case*, and no further delay is necessary. For this reason, the January 29 stay order lies beyond the discretionary power of the District Court to stay proceedings pending the outcome of cases in this Court, since issues presented in those pending cases are *not* germane to the present disposition of this case in its present posture.

B. Respondent state officials also attempt to rely on a reason not stated by the District Court in its January 29 stay order by suggesting that reapportionment legislation is pending in the Mississippi Legislature (Brief, pp. 9-10). We agree that any constitutionally acceptable legislative plan properly and timely pre-cleared under Section 5 might succeed any court-ordered plan, but the District Court judges do not assign this as a reason for delay action. Since 1962 the Mississippi Legislature has failed to enact a plan which meets constitutional standards or Section 5 approval. The deadlines for committee action (March 11) and original floor action for bills originating in each house (March 18) during the 1975 Regular Session of the Mississippi Legislature (except for private legislation and revenue bills) have now passed, and no state legislative reapportionment legislation has been reported out. All pending legislative reapportionment bills have died in committee, and cannot be resurrected except by a suspension of the rules which requires a two-thirds vote.

The Legislature already has been given a more than adequate opportunity to act, and the District Court's duty was and has been "to grant relief under equitable principles to insure that no further elections are held under an unconstitutional scheme." *Davis* v. *Mann*, 377 U.S. 678, 693 (1964).

C. The possibility of legislative action *is* advanced by the District Court (Response, p. 4) to justify its failure to take any action in this case from January, 1972 to February, 1975, even after this Court had directed in *Connor* v. *Williams*, *supra*, that proceedings to establish single-member districts "should go forward and be promptly concluded" (404 U.S. at 551) and had remanded this case for "a final judgment with respect to the entire State" (*id.* at 551-52). By its January 29, 1976 stay order, the District Court has unquestionably failed in its responsibility and must now be required promptly to afford plaintiffs an adequate remedy for the continued denial of their voting rights.

4. This Court Should Issue the Writ of Mandamus to Compel Compliance with its Prior Mandates.

None of the respondents seriously contend in their briefs that the temporary plan ordered by the District Court for the 1975 legislative elections complies with the mandate of this Court in *Connor* v. *Waller*, 421 U.S. 656 (1975), or satisfies the standards for court-ordered plans established by this Court in *Chapman* v. *Meier*, 420 U.S. 1 (1975). Indeed, any court-ordered plan in which 51 of the 84 House districts are multi-member districts, electing 72.95 percent of the House membership, and in which 15 of the 39 Senate districts are multi-member districts, electing 53.85 percent of the Senate membership,[4] and which is malapportioned by total de-

[4] The Mississippi Attorney General in his Brief (p. 13) disputes these statistics by asserting that there are only 28 multi-member House districts and 12 multi-member Senate districts, but includes in his computation of single-member districts the floterial districts established by the order of July 11, 1975. But floterial districts are a "special variety of multi-member districting" (Robert G. Dixon, Jr., DEMOCRATIC REPRESENTATION 461 (1968) in which one or more legislators are elected from subdistricts (here, counties), and others are elected at-large (here, groups of counties). A considerable degree of sophistry is required, for example, to assert that where one Representative is elected from Alcorn County, one Representative is elected from Benton and Tippah Counties together, and a third Representative is elected from Alcorn, Benton, and Tippah together, that three single-member districts are thereby created (Petition, App. F., p. 48a). But the point to be made here is that even if the State's twisted arithmetic is accepted, further relief is compelled by the decisions of this Court.

viations of 62.963 percent and 20.292 percent for the floterial districts, and 19.729 percent and 18.902 percent (House and Senate, respectively) in the nonfloterial districts, is patently violative of this Court's June 5, 1975 mandate and of the requirements established in the decisions there cited. *See also East Carroll Parish School Bd.* v. *Marshall*, *supra*.

The respondent judges do not even attempt the argument that their temporary 1975 plan complies with this Court's mandate (Brief of Respondent-Defendants, pp. 5, 13), but admits as they must (p. 13) the continued existence since 1971 of a large number of multi-member districts.

Thus, the fundamental question presented by the Petition is whether this Court's orders to the District Court should be implemented now as petitioners implore, or whether implementation should be delayed at least until 1977 as the respondent judges suggest (Response, p. 2) or until 1979 as the defendant state officials contend (Brief, p. 2).

In the 1972 decision in this case, *Connor* v. *Williams*, *supra*, this Court indicated that further delay was not to be tolerated when it ordered that proceedings for the

development of single-member districts in the most populous counties "should go forward and be promptly concluded" (404 U.S. at 551) and remanded this case back to the District Court for "a final judgment with respect to the entire State" (*id.* at 551-52). Now, four years later, there is still no "final judgment with respect to the entire State" and the District Court, by staying further proceedings and decision, continues to engage in the tactics of delay.[5]

Significantly, neither the respondent judges nor the defendant state officials advance the argument that even with the January 29 stay order, a permanent plan can be approved this year and remedial special elections held in conjunction with the November, 1976 presidential election as contemplated by the District Court's order of August 1, 1975. The District Court judges contend that "no emergency exists" (Response, p. 2) and the defendant state officials argue that nothing should happen until 1979 (Brief, p. 2). These assertions serve to underline petitioners' contention that the purpose and effect of the January 29 stay order is to discard entirely the timetable for implementation established on August 1, 1975 (Petition, App. C. pp. 4a-5a) by the District

[5] The District Judges in their response erroneously assert that the present litigation is only ten months old, because on April 10, 1975, all prior proceedings were dismissed as moot, and plaintiffs were ordered to file an amended complaint (Response, pp. 5-6) (*see* Pet., App. G, p. 80a, Judgment entered April 11, 1975). However, the respondent judges fail to inform the Court that on June 20, 1975, they entered an order rescinding and vacating the Judgment of April 10, 1975, and reinstated all prior proceedings in this case. Order Vacating Judgment entered June 20, 1975 (Pet., App. G, p. 84a). (The only apparent purpose of this June 20 order was to permit the District Court to reach back and reinstate the 1971 court-ordered plan for the 1975 legislative elections.) More importantly, no procedural gambit by the District Court should disguise the fact that this litigation to secure these plaintiffs' voting rights has been "running for ten years with numerous decisions" (January 29, 1976 stay order, Petition, App. A, p. 1a) without a lawful and final resolution.

Court itself, and to delay until some future unspecified time compliance with the prior mandates of this Court.

If the District Court's January 29 stay order is not vacated, and the District Court directed to proceed to a final judgment without further delay, petitioners and the class which they represent will continue to suffer the most grevious irreparable injury by reason of the continued violation of their voting rights (already three times declared by this Court), their continued virtual exclusion from any free and meaningful participation in the legislative election process, and the continued perpetuation in office of concededly unlawfully elected legislators who, therefore, do not represent the interests of their constituents.[6]

[6] *See, e.g.*, Jurisdictional Statement, *Connor* v. *Waller*, *supra*, App. E, pp. 1e-4e.

CONCLUSION

The relief requested in the Petition should be granted: either the respondent judges should be ordered to render a final judgment to permit necessary special elections in conjunction with the 1976 presidential election, or the Chief Judge of the Court of Appeals should be directed to convene a new three-judge panel to carry out this Court's prior mandates.

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APPENDIX A

District Court Order of June 25, 1975

APPENDIX A

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
JACKSON DIVISION

Civil Action Number 3830

[Filed June 25, 1975, Southern District of Mississippi, Robert C. Thomas, Clerk, By ————, Deputy]

PEGGY J. CONNOR, ET AL.,
Plaintiffs,

v.

WILLIAM L. WALLER, GOVERNOR, ET AL.,
Defendants.

ORDER

Pursuant to the remand of this case by the Supreme Court of the United States on June 9, 1975, this Court held a hearing in Jackson, Mississippi on June 20, 1975, at which the parties, represented by counsel, presented oral argument lasting the entire day. No further evidence was adduced; the parties expressly stipulating in open court that they preferred to stand on the evidentiary record as heretofore developed.

At said hearing, the original plaintiffs and the Department of Justice objected to the composition of certain legislative districts on the ground that they cancel or minimize black voting strength as follows:

A. Objected to by the original plaintiffs:

House Districts numbered 3, 9, 23, 24, 28, 30 and 37;

Senate Districts numbered 1, 8, 16, 18, 19, 24 and 27.

B. Objected to by the Department of Justice:

House Districts numbered 3, 9, 13, 14, 15, 17, 23, 24, 28, 29, 30, 31, 32, 33, 34, 37, 39 and 40.

Senate Districts numbered 1, 6, 8, 14, 15, 18, 19, 22, 24 and 25.

The legal and factual reasons for the asserted unconstitutional dilution of black voting strength in many of the legislative districts are so unclear as to leave the Court with no adequate basis for findings in this regard. This is especially true of the objections asserted by the Department of Justice. Some districts with black population majorities have been objected to, while others in the same category have not been challenged.

Therefore, the Department of Justice is requested, as soon as reasonably possible, to file memoranda with the Court specifically setting forth, *district by district*, the facts of record or of which this Court may take judicial notice, demonstrating the unconstitutional dilution of black voting strength as heretofore asserted by the Department of Justice. The original plaintiffs may file similar memoranda as to the districts to which they have objected, if they so desire.

This Court proposes, where necessary, to alter any legislative district so as to remedy any existing unconstitutional dilution of black voting strength, but more information is required for a judicial determination that the need exists, especially as to a number of districts named by the Department of Justice.

We request particular attention to those districts presently having a black majority population, since not all black population majority districts were objected to.

The requested memoranda need not be addressed to Hinds, Harrison and Jackson Counties as this Court is under a prior mandate from the Supreme Court of the United States concerning legislative districts in these counties.

The parties are hereby formally advised that the Court proposes to formulate a temporary plan for the election of Senators and Representatives for the 1975 election ONLY, the first primary being scheduled by law for August 5, 1975.

We find as a fact that a permanent plan for the reapportionment of legislative districts cannot now be formulated because there is not enough time between now and the August primaries to accomplish the necessary reregistration of voters, personally or administratively, nor to geographically realign voting precincts, Mississippi being a permanent registration states in which precinct boundaries (over 2,000 in the state) are fixed by local Boards of Supervisors so as to fit within the boundaries of the five Supervisors Districts in each county (52 counties having been reapportioned under the one person —one vote rule since the census of 1970).

By the entry of this order, the parties are judicially informed that this Court proposes without unnecessary delay to formulate a permanent plan for the election of legislators in the quadrennial elections of 1979. When that shall have been accomplished, special elections may be ordered in those legislative districts where required by law, equity, or the Constitution of the United States.

The parties are likewise hereby informed that as to legislative districts altered by the temporary plan for 1975, an adequate period of time will be allowed for the qualification of candidates in the altered districts; however, those already qualified will remain so for the area in which they reside. If necessary, the printing of special ballots for the legislature in the altered districts will be ordered.

The scheduled elections for members of the legislature in 1975 will not be postponed.

Redistricting Jackson County:

The parties are informed that the Court presently intends in the temporary plan to comply with the mandate of the Supreme Court as to single member districts in Jackson County by taking the following action:

District 46

Jackson County, one Representative to be elected from each of the five Supervisors Districts.

District 42	Population
Perry County	9,065
Greene County:	
Beats 1, 2, 3 and 5	6,836
Total	15,891

12.6% off the statewide norm.

District 47	
George County	12,459
Beat 4 of Greene County	1,709
Beat 5 of Stone County	1,620
Total	15,788

12.6% off the norm.

This will leave *District 43* as follows:

Pearl River County	27,802
Stone County:	
Beats 1, 2, 3, and 4	6,480
Total	34,282

17,141 population per House Member
5.7% off the norm.

The Court is of the opinion that this plan is far preferable to creating a single member District of George County alone, which would be 31% off the norm.

The parties are requested to state their objections, if any, to this proposal.

The Court realizes that the above plan geographically fractures Greene and Perry Counties and that this violates the well defined, ancient public policy of the state of Mississippi of preserving the integrity of its county boundaries. We do it in this instance because there appears to be no other way to conform to the Supreme Court mandate. This is temporary only, for the 1975 elections, and is not to serve as a precedent in any other situation, although such fracturing may be unavoidably necessary in certain other instances to comply with the Fifteenth Amendment and will, where required, be done for that reason.

Redistricting Harrison County

The parties are further advised that because of the absence of any viable alternative, the Court intends to conform as nearly as possible to the Supreme Court mandate as to Harrison County by directing that one Representative shall be elected from each of the five Supervisors Districts and two from the county at large, subject to the possibilities of special election if later, in the course of this litigation, this should be legally mandated.

The three Senators will be elected from Harrison County at large, it being now impossible, for lack of population statistics, to erect three Senatorial Districts of substantially equal size within the county.

If the parties have any valid objections to this temporary measure, they are requested to state them.

Redistricting Hinds County

The parties are informed that the specific method by which Hinds County is to be divided into single member districts as ordered by the Supreme Court is receiving

the continuing consideration of the Court, which has come to no resolution thereon, except that as a temporary measure, the five Hinds County Senators will be chosen from single member districts, one from each of the five Supervisor's Districts in the county as recently reapportioned by the United States District Court. Candidates for said seats from said districts shall have until 5 o'clock p.m., C.S.T., Monday, July 7, 1975, in which to qualify as candidates. Those already qualified will remain candidates from the district in which they legally reside as of 5 o'clock p.m., C.S.T., Monday, July 7, 1975.

SO ORDERED by the unanimous direction of the Court, this June 25, 1975.

/s/ Harold Cox

United States District Judge